



# House of Representatives

General Assembly

**File No. 272**

*January Session, 2009*

Substitute House Bill No. 6186

*House of Representatives, March 26, 2009*

The Committee on Labor and Public Employees reported through REP. RYAN of the 139th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

## **AN ACT PROTECTING THE INTEGRITY OF CONN-OSHA INVESTIGATIONS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-374 of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2009*):

3 (a) In order to carry out the purposes of this chapter the  
4 commissioner, upon presenting appropriate credentials to the  
5 employer, is authorized (1) to enter without advance notice, except as  
6 provided in [subsection (d) of section 31-371] regulations adopted in  
7 accordance with chapters 54 and 571, and at reasonable times any  
8 factory, plant, establishment, construction site, or other area, work  
9 place or environment where work is performed by an employee of an  
10 employer, and (2) to inspect and investigate, during regular working  
11 hours and at other reasonable times and within reasonable limits and  
12 in a reasonable manner, any such place of employment and all  
13 pertinent conditions, structures, machines, apparatus, devices,

14 equipment and the materials therein and to question, privately, any  
15 such employer or employee. Whenever the commissioner, proceeding  
16 pursuant to this section, is denied admission to any such place of  
17 employment, he shall obtain a warrant to make an inspection or  
18 investigation of such place of employment from any judge of the  
19 Superior Court. Any judge of the Superior Court within the state is  
20 authorized to issue a warrant pursuant to this section and shall issue  
21 such warrant whenever he is satisfied that the following conditions are  
22 met: That the individual seeking the warrant is a duly authorized  
23 agent of the department; and that such individual has established  
24 under oath or affirmation that the place of employment to be  
25 investigated in accordance with this section is to be inspected to  
26 determine compliance or noncompliance with a standard, regulation  
27 or order, or that there is probable cause to believe that there is a  
28 condition in or about such place of employment constituting a hazard  
29 to safety or health.

30 (b) In making his inspections and investigations under this chapter,  
31 the commissioner may require the attendance and testimony of  
32 witnesses and the production of evidence under oath. Witnesses shall  
33 be paid the same fees and mileage that are paid witnesses in the courts  
34 of this state. In case of contumacy or failure or refusal of any person to  
35 obey such an order, the superior court for the judicial district wherein  
36 such person resides, is found or transacts business shall have  
37 jurisdiction to issue to such person an order requiring such person to  
38 appear to produce evidence if asked, and when so ordered, and to give  
39 testimony relating to the matter under investigation or in question.  
40 Any failure to obey such order of the court may be punished by [said]  
41 the court as a contempt thereof.

42 (c) (1) Each employer shall make, keep and preserve and make  
43 available to the commissioner and the United States Secretary of Labor  
44 such records regarding his activities relating to this chapter as the  
45 commissioner may prescribe [by regulation] in regulations adopted in  
46 accordance with chapters 54 and 571 as necessary or appropriate for  
47 the enforcement of this chapter or for developing information

48 regarding the causes and prevention of occupational accidents and  
49 illnesses. In order to carry out the provisions of this subdivision such  
50 regulations may include provisions requiring employers to conduct  
51 periodic inspections. The commissioner shall also [issue] adopt  
52 regulations in accordance with chapters 54 and 571 requiring that  
53 employers through posting of notices or other appropriate means keep  
54 their employees informed of their protections and obligations under  
55 this chapter, including the provisions of applicable standards.

56 (2) The commissioner shall [prescribe] adopt regulations in  
57 accordance with chapters 54 and 571 requiring employers to maintain  
58 accurate records of and to make periodic reports on work-related  
59 deaths, injuries and illnesses other than minor injuries requiring only  
60 first aid treatment and which do not involve medical treatment, loss of  
61 consciousness, restriction of work or motion, or transfer to another job.

62 (3) The commissioner shall [issue] adopt regulations in accordance  
63 with chapters 54 and 571 requiring employers to maintain accurate  
64 records of employee exposures to potentially toxic materials or  
65 harmful physical agents which are required to be monitored or  
66 measured under any occupational safety and health standard adopted  
67 under this chapter. Such regulations shall provide employees or their  
68 representatives an opportunity to observe such monitoring or  
69 measuring and to have access to the records thereof. Such regulations  
70 shall also make appropriate provision for each employee or former  
71 employee to have access to such records as will indicate his own  
72 exposure to toxic materials or harmful physical agents. Each employer  
73 shall promptly notify any employee who has been or is being exposed  
74 to toxic materials or harmful physical agents in concentrations or at  
75 levels which exceed those prescribed by an applicable occupational  
76 safety and health standard promulgated [under section 31-371] in  
77 regulations adopted in accordance with chapters 54 and 571 and shall  
78 inform any employee who is being thus exposed of the corrective  
79 action being taken.

80 (d) Any information obtained by the commissioner under this

81 chapter shall be obtained with a minimum burden upon employers.  
82 Unnecessary duplication of efforts in obtaining information shall be  
83 reduced to the maximum extent feasible.

84 (e) Subject to regulations [issued] adopted by the commissioner in  
85 accordance with chapters 54 and 571, a representative of the employer  
86 and a representative authorized by the employees of the employer  
87 shall be given an opportunity to accompany the commissioner or his  
88 authorized representative during the physical inspection of any work  
89 place for the purpose of aiding such inspection. Where there is no  
90 authorized employee representative, the commissioner or his  
91 authorized representative shall consult with a reasonable number of  
92 employees concerning matters of health and safety in the work place.

93 (f) (1) Any employee or representative of employees who believes  
94 that there is a violation of an occupational safety or health standard or  
95 that there is an imminent danger of physical harm may request an  
96 inspection by giving notice to the commissioner or his authorized  
97 representative of such violation or danger. Any such notice shall be  
98 reduced to writing and shall set forth with reasonable particularity the  
99 grounds for the notice, and shall be signed by the employees or the  
100 representative of employees. A copy of such notice shall be provided  
101 the employer or [his] the employer's agent no later than the time of the  
102 inspection, provided, upon the request of the person giving such  
103 notice, his or her name and the names of individual employees  
104 referred to therein shall not appear in such copy or on any record  
105 published, released or made available pursuant to subsection (g) of  
106 this section. Upon the request of an individual employee whose name  
107 is not included in such notice, but who at any time provides  
108 information to the commissioner concerning the violation or danger  
109 alleged in such notice, the name of such individual employee shall not  
110 appear on any record published, released or made available pursuant  
111 to subsection (g) of this section. If upon receipt of such notification the  
112 commissioner determines there are reasonable grounds to believe that  
113 such violation or danger exists, he shall make an inspection in  
114 accordance with the provisions of this section as soon as practicable to

115 determine if such violation or danger exists. Such inspection may be  
116 limited to the alleged violation or danger. If the commissioner  
117 determines there are no reasonable grounds to believe that such  
118 violation or danger exists, he shall notify the employer, employee or  
119 representative of employees in writing of such determination. Such  
120 notification shall not preclude future enforcement action if conditions  
121 change.

122 (2) Prior to or during any inspection of a work place, any employees  
123 or representative of employees employed in such work place may  
124 notify the commissioner or any representative of the commissioner  
125 responsible for conducting the inspection in writing of any violation of  
126 this chapter which they have reason to believe exists in such work  
127 place. The commissioner shall by regulation establish procedures for  
128 informal review of any refusal by a representative of the commissioner  
129 to issue a citation with respect to any such alleged violation and shall  
130 furnish the employer and the employees or representative of  
131 employees requesting such review a written statement of the reasons  
132 for the commissioner's final disposition of the case. Such notification  
133 shall not preclude future enforcement action if conditions change.

134 (g) (1) The commissioner [is authorized to] may compile, analyze  
135 and publish in either summary or detail form all reports or  
136 information obtained under this section.

137 (2) The commissioner shall [prescribe such rules and] adopt such  
138 regulations in accordance with chapters 54 and 571 as he may deem  
139 necessary to carry out his responsibilities under this chapter, including  
140 [rules and] regulations dealing with the inspection of an employer's or  
141 owner's establishment.

142 (h) (1) In accordance with the provisions of section 4-38d, the duty  
143 of the Department of Public Health to license and to establish  
144 standards for health facilities operated by a commercial or industrial  
145 establishment for the care of its employees shall be transferred to the  
146 Division of Occupational Safety and Health of the Labor Department.  
147 No commercial or industrial establishment within the state shall

148 establish, conduct, operate or maintain a health facility for its  
149 employees without a license as required by this subsection.

150 (2) Application for such license shall be made to the Labor  
151 Department upon forms provided by it and shall contain such  
152 information as [said] the department requires, which may include  
153 affirmative evidence of ability to comply with reasonable standards  
154 and regulations [prescribed under] adopted pursuant to the provisions  
155 of this subsection. Upon receipt of an application for a license, the  
156 Labor Department shall issue such license if, upon inspection and  
157 investigation by the Division of Occupational Safety and Health, it  
158 finds that the applicant and facilities meet the requirements  
159 established by regulation. Such license shall be valid for one year or  
160 fraction thereof and shall terminate on March thirty-first, June  
161 thirtieth, September thirtieth or December thirty-first of each year. A  
162 license, unless sooner suspended or revoked, shall be renewable  
163 annually, without charge, upon the filing by the licensee, and approval  
164 by the Labor Department, of an annual report upon such date and  
165 containing such information in such form as [said] the department  
166 prescribes and satisfactory evidence of continuing compliance with  
167 requirements. Each license shall be issued only for the premises and  
168 persons named in the application and shall not be transferable or  
169 assignable. Licenses shall be posted in a conspicuous place on the  
170 licensed premises.

171 (3) The Labor Department shall [promulgate] adopt, in accordance  
172 with chapters 54 and 571, and enforce regulations for health facilities  
173 licensed under the provisions of this subsection in order to provide for  
174 reasonable standards of health, safety and comfort for the employees  
175 utilizing such facilities. The regulations [issued] adopted by the Labor  
176 Department shall conform to the standards established by this chapter.

177 (4) The Labor Department, after reasonable notice and a hearing,  
178 may suspend, revoke or refuse to renew a license in any case in which  
179 it finds there has been a substantial failure to comply with the  
180 requirements established under this subsection. The requirements of

181 reasonable notice and hearing, as provided for in this subsection, and  
182 appeals from the decisions of said department, shall comply with the  
183 requirements of chapter 54.

This act shall take effect as follows and shall amend the following sections:		
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Section 1	<i>October 1, 2009</i>	31-374
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***Statement of Legislative Commissioners:***

In subdivision (1) of subsection (a), the statutory reference was bracketed because it is unnecessary in light of the inserted reference to chapter 571.

***LAB***      *Joint Favorable Subst.*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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***OFA Fiscal Note***

***State Impact:*** None

***Municipal Impact:*** None

***Explanation***

The bill allows certain individuals to request and be granted the removal of their name from any record associated with providing information of a potential violation of an occupational safety or health standard, or a situation with an imminent threat of physical harm. The bill also makes technical changes and has no fiscal impact.



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**OLR Bill Analysis****sHB 6186*****AN ACT PROTECTING THE INTEGRITY OF CONN-OSHA INVESTIGATIONS.*****SUMMARY:**

By law, a state and local public employee who gives notice to the labor commissioner of a potential occupational safety and health violation or situation with an imminent threat of danger of physical harm may ask and have his or her name removed from any record published, released, or made available regarding the potential violation or danger. This bill gives this same right to an employee whose name is not part of the original complaint notice, but who at any time provides information to the commissioner regarding the potential violation or danger.

By law, once the commissioner receives such a notice, she may enter the workplace without advance notice for an inspection. Also, she may compile, analyze, and publish, in either summary or detail form, all reports of information obtained under this provision.

The bill specifies that the regulations adopted for the state Occupational Safety and Health Act must be in accordance with the act and the Uniform Administrative Procedure Act.

The bill also makes technical changes.

EFFECTIVE DATE: October 1, 2009

**COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute

Yea    11    Nay   0    (03/12/2009)